

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER**

**ACADIA INSURANCE COMPANY,
as subrogee of PETERBOROUGH OIL
CO., INC.
One Acadia Commons
Westbrook, ME 04092**

VS.

**CIVIL NO.
04-12043RGS**

**JASON J. TERHO
234 Lake Road
Ashburnham, MA 01434**

**DEFENDANT, JASON J. TERHO, ANSWER TO PLAINTIFF'S COMPLAINT AND
DEMAND FOR TRIAL BY JURY IN THE U.S. DISTRICT COURT**

1. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.
2. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.
3. The Defendant denies the allegations contained in paragraph 3 of the Complaint.
4. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.
5. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.
6. The Defendant denies the allegations contained in paragraph 6 of the Complaint.
7. The Defendant denies the allegations contained in paragraph 7 of the Complaint.

8. The Defendant realleges and reaffirms his answers to paragraphs 1 through 7 of the Complaint and incorporates them herein as his answer to paragraph 8 of the Complaint.
9. The Defendant denies the allegations contained in paragraph 9 of the Complaint.
10. The Defendant admits the allegations contained in paragraph 10 of the Complaint.
11. The Defendant admits the allegations contained in paragraph 11 of the Complaint.
12. The Defendant denies the allegations contained in paragraph 12 of the Complaint.
13. The Defendant denies the allegations contained in paragraph 13 of the Complaint.
14. The Defendant denies the allegations contained in paragraph 14 of the Complaint.
15. The Defendant denies the allegations contained in paragraph 15 of the Complaint.
16. The Defendant denies the allegations contained in paragraph 16 of the Complaint.
17. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.

COUNT I

18. The Defendant realleges and reaffirms his answers to paragraphs 1 through 17 of the Complaint and incorporates them herein as his answer to paragraph 18, Count I of the Complaint.
19. The Defendant denies the allegations contained in paragraph 19, Count I of the Complaint.
20. The Defendant denies the allegations contained in paragraph 20, Count I of the Complaint.

COUNT II

The Defendant realleges and reaffirms his answers to paragraphs 1 through 20 of the Complaint and incorporates them herein .

21. The Defendant denies the allegations contained in paragraph 21, Count II of the Complaint.

22. The Defendant denies the allegations contained in paragraph 22, Count II of the Complaint.

23. The Defendant denies the allegations contained in paragraph 23, Count II of the Complaint.

24. The Defendant denies the allegations contained in paragraph 24, Count II of the Complaint.

25. The Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25, Count II of the Complaint.

DEFENDANT HEREBY DEMANDS A TRIAL BY JURY IN THE U.S. DISTRICT COURT.

AFFIRMATIVE DEFENSES

AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:

That there was insufficiency of service pursuant to Fed. R. Civ P. 4.

**AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:**

That venue is improper.

**AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:**

That the real party in interest, Peterborough Oil Company, Inc. is a Massachusetts entity and therefore there is no diversity of citizenship to warrant Federal jurisdiction.

**AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:**

The Complaint fails to state a claim against the Defendant upon which relief can be granted.

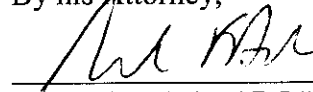
**AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:**

That the injuries and damages were caused in whole or in part by the conduct of person(s) for whom the Defendant, Jason Terho, is not responsible.

**AS AND FOR A SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE THE
DEFENDANT RESPECTFULLY SETS FORTH AND ALLEGES:**

That the injuries and damages alleged were caused in whole or in part by the Plaintiff's own negligence, and the Plaintiff is therefore barred from recovery or his recovery must be diminished in accordance with the law.

Defendant,
JASON J. TERHO
By his Attorney,



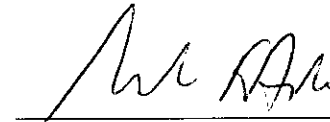
Michael F. Ashe BBO# 561009
Law Office of Donna Gully-Brown
446 Main Street, Flr 19
Worcester, MA 01608
(508)753-0306

CERTIFICATE SERVICE

I, Michael F. Ashe , do hereby certify that on November 3, 2004, I served by mailing, postage prepaid a copy of defendant's answer to plaintiff's complaint to:

Patrick J. Loftus, III, Esq.
9 Park Street, Ste 500
Boston, MA 02108

William E. Gericke, Esq.
Cozen, O'Connor Attorneys
1900 Market Street, Third Floor
Philadelphia, PA 19103



Michael F. Ashe

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FILED
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P 1:21

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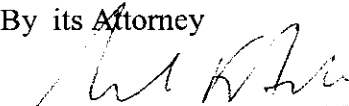
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Ashburnham, MA 01434**

**DEFENDANT, JASON J. TERHO, CLAIM FOR
JURY TRIAL IN THE U.S. DISTRICT COURT**

The Defendant, **JASON J. TERHO** , demands a trial by jury in the U.S. District Court on all issues.

Defendant
JASON J. TERHO
By its Attorney



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